

Applicant: Shintaro Asano
U.S.S.N.: 09/802,093

REMARKS

In response to the Office Action mailed August 13, 2004, Applicant respectfully requests reconsideration. Claims 31 and 32 have been added to the application. Claims 12, 13 and 17-32 are pending in the application with claims 12, 22 and 27 being in independent form. The claims as presented are believed to be in allowable condition.

Allowed Claims

In the Office Action, claims 12, 13 and 17-21 have been allowed.

Claim rejections under 35 U.S.C. 102

Claims 22-30 have been rejected under 35 U.S.C. §102(b) as being anticipated by Yu (US Patent No. 5,764,903). For the reasons discussed below, Applicant respectfully traverses this rejection.

Yu is directed to a system and method for mirroring hard disk data of a primary server over a network to a secondary server (see Abstract). In the system of Yu, the primary server includes a virtual disk driver that sends write requests to both the primary server and the secondary server to provide a mirroring of data. The method described in Yu is similar in some respects to systems and methods described in Galipeau (U.S. Published Application No. 2002/0049925A1) and to those described in the background of the present application that provide back-up data over the Internet. (see page 1, lines 27-33 of the specification of the present application). Claim 22 had been previously rejected as anticipated by Galipeau, but that rejection has been withdrawn.

Claim 22 is directed to a method of remotely monitoring a data back-up process associated with a first computer and a storage device operatively coupled to the first computer. The method includes receiving an electronic message at a second computer sent over a network by the first computer, wherein the second computer is located remotely from the first computer and the storage device, and the message indicates that the first computer is prepared to start a data back-up process, sending an electronic message from the second computer to the first computer to instruct the first computer to start the data back-up process, using the second computer, monitoring over the network the back-up process being performed by the first

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computer, and sending a message from the second computer indicating a status of the back-up process.

The method of claim 22 provides for remote monitoring of a data back-up process rather than mirroring of data over a network as described by Yu, and because of this difference, the system of Yu is different from and does not anticipate the method of claim 22. More specifically, claim 22 recites a method in which a second computer monitors a back up process on a first computer. As part of this process, the second computer sends an electronic message to the first computer to instruct the first computer to start the data back-up process. Yu does not disclose or suggest a system or method in which one computer, which is monitoring a back-up process on another computer, sends an electronic message to the other computer to start a data back-up process as in the method recited in claim 22.

In the Office Action, the Examiner has specifically cited Col. 6, line 42 to Col. 7, line 15 of Yu as anticipating claim 22. The cited portion of Yu discusses steps C-F of a process shown in flowchart form in FIG. 4 of Yu. The steps of the process cited discuss specific details of the mirroring process of Yu in which the writing of data to both a local and a remote server are confirmed within a predetermined time period. The cited portion of Yu is not directed at all to a method of monitoring a back-up process. If the rejection of claim 22 as being anticipated by Yu is to be maintained, the Examiner is respectfully requested to point out how each of the claim limitations of claim 22 are met by the disclosure of Yu.

Based on the foregoing, claim 22 is patentably distinguishable over Yu, and rejection of claim 22 under 35 U.S.C. §102(b) should be withdrawn.

Claims 23-26 depend from claim 22 and are patentable for at least the same reasons. In addition, these claims include additional limitations that are patentable over Yu.

Claim 27 is directed to a system for remotely monitoring over a network a data back-up process associated with a remote computer and a storage device operatively coupled to the remote computer. The system includes a network computer having a network connection to couple the network computer to a network, the network computer being programmed to, receive an electronic message sent over the network by the remote computer, wherein the message indicates that the remote computer is prepared to start a data back-up process, to send an electronic message to the remote computer to instruct the remote computer to start the data back-

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up process, to monitor the data back-up process being performed by the remote computer, and to send a message indicating a status of the back-up process.

Claim 27 is a system claim that is similar in some aspects to method claim 22 and is patentable over Yu for reasons similar to those of claim 22 discussed above. Specifically, claim 27 is directed to a system that remotely monitors a data back-up process and includes among other things, a network computer that is programmed to send an electronic message to a remote computer to instruct the remote computer to start a data back-up process. As discussed above with respect to claim 22, Yu does not disclose or suggest a system or method in which one computer, which is monitoring a back-up process on another computer, sends an electronic message to the other computer to start a data back-up process. Based on the foregoing, claim 27 is patentably distinguishable over Yu, and the rejection of claim 27 under 35 U.S.C. §102 should be withdrawn.

Claims 28-30 depend from claim 30 and are patentable for at least the same reasons. In addition, these claims include additional limitations that are distinguishable over Yu.

Claims 31 and 32 have added to the application. Claim 31 depends from claim 22 and is patentable for at least the same reasons. Further, claim 31 recites that data included in the data back-up process is not provided from the second computer to the first computer. In the mirroring process of Yu, data to be stored on the secondary server is provided to the secondary server by the primary server.

Claim 32 depends from claim 27 and is patentable for at least the same reasons. Further, claim 32 recites that the network computer is programmed to instruct the remote computer to start the back-up process using data stored on the remote computer. As discussed above, in Yu, data to be stored on the secondary server is provided to the secondary server by the primary server.

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CONCLUSION

Based on the foregoing, this application is believed to be in allowable condition and a notice to that effect is respectfully requested. If the Examiner has any questions, he/she is invited to contact the Applicant's Attorney at the number provided below.

Respectfully submitted,

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Dated: November 15, 2004
Attorney Docket No.: C2003-700110

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